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October 30, 1997

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, D.C. 20554

Re: MM Docket No. 97-182

Dear Mr. Caton

Transmitted herewith, on behalf of Ohio Educational Telecommunications, are the original and four copies of its Comments In Response To Notice Of Proposed Rule Making in the above-referenced matter.

Any questions concerning the enclosed Comments should be addressed to undersigned counsel.

Very truly yours

Stanley S. Neustadt
Stanley S. Neustadt

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
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BEFORE THE

Federal Communications Commission

In the Matter of

Preemption of State and Local Zoning and
Land Use Restrictions on the Siting,
Placement and Construction of Broadcast
Station Transmission Facilities

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MM Docket No. 97-182

COMMENTS OF OHIO EDUCATIONAL TELECOMMUNICATIONS IN RESPONSE TO NOTICE OF PROPOSED RULE MAKING

Ohio Educational Telecommunications ("OET"), by its attorneys, files these Comments in response to the Notice of Proposed Rule Making ("NPRM") released in the above-captioned proceeding on August 19, 1997. OET generally supports both the Commission's proposals in this proceeding, and the underlying reason for them--namely, the great importance not only of the shift to digital television transmissions, but also that the transition be made as universal as possible in the shortest transition time frame to insure the best service to the public with the least risk for the consumer. OET is itself an agency of the government of the State of Ohio. It should be understood, however, that these Comments set forth the views of OET, and do not necessarily represent the views of any of the public broadcast stations in the State of Ohio. In support of these views, OET states:

1. OET, which has participated in many rule making proceedings which have involved or affected public broadcasting, either directly or indirectly, is an independent agency of the State of Ohio, created by Act of the General Assembly of the State of Ohio. It was created to foster the

growth and development of public broadcasting in Ohio, and to provide all Ohio residents with access to the services provided by public broadcasting stations. To this end, the OET network links Ohio's 12 educational television stations, 30 educational radio stations, and 10 radio reading services in a statewide system, and provides grants to those stations to subsidize operations and programming.

2. The key to the creation of OET, some thirty-five years ago, after a state-wide study conducted in accordance with decisions of the then Governor and the State Legislature, was that, although there were already a number of public broadcast television stations in the State, their service was not available to significant portions of the population. OET then conducted the necessary studies, both technical and social, to determine how best to bring the benefits of public broadcasting to every individual and every school in Ohio, successfully requested rule making to allot and reserve additional television channels, applied for and became the permittee of six additional channels, and ultimately assigned those channels to local educational or other entities to insure that they would best serve the needs of the localities throughout the State. Although the functions delegated to OET by the Legislature have greatly expanded, its principal function is, and will always remain, to insure that every Ohio citizen can receive the benefits of public broadcasting. It is essential to the continued accomplishment of this high purpose that the benefits of digital television ("DTV") be provided with as little disruption and as little risk to the consumer as possible.

3. Among the reasons set forth by the Commission which support an accelerated roll-out of DTV (NPRM, par. 10), the one with the most direct impact on the viewing public which is OET's primary concern, is that an aggressive construction schedule will offset any possible disincentives for any individual broadcaster to begin DTV transmissions quickly. To the

extent that DTV widely and rapidly replaces analog transmissions, there will be less chance that the public will be called upon to invest in equipment which may prove worthless, or at least to wonder how best to invest in equipment. In this connection, OET has requested from the Ohio legislature as much as \$29 million for the next biennium to help the public broadcast stations make the transition. If DTV is widespread and has great penetration, the future will be relatively clear. The use of State and individual funds will then have been justified.

4. OET's experience in the planning and construction of ETV stations impels the conclusion that the timing of such construction cannot be permitted to be determined by the vagaries of local ordinances and regulations. Whatever the merits of such local requirements, the delays and the uncertainty of the process could render almost impossible the attainment of the type of transition contemplated by the Commission and supported by OET. The proposals set forth in the NPRM contain sufficient safeguards so that a valid public interest found by a locality would not be overridden by Federal power.

5. It should be noted that the need for carefully designed preemption policies, such as those proposed, is, except for the creation of the Commission itself to regulate chaos in the airwaves, unique in the history of broadcast regulation. Never before has technological advance resulted in a situation in which the mere adoption of a new technology renders useless the technology and equipment which it replaces. Standard broadcasting continued, and even prospered during the introduction and development of FM; monaural AM and FM radio continued during the development of stereo, which could be received on monaural receiving equipment, and, although the Commission originally adopted standards for color television which could not be received on black and white receivers, they were never implemented, and "compatible" color standards were

finally adopted. The shift to DTV will ultimately render useless the NTSC receivers in the hands of the public. Preemption is not only justified, it is essential. The NPRM proposals are carefully circumscribed to accommodate legitimate local interests, but local procedures and some local concerns may not be permitted to make a difficult transition even more difficult, especially when the result would be to harm the vast body of television viewers.

Respectfully submitted

OHIO EDUCATIONAL TELECOMMUNICATIONS

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